

Appendix A



COMMONWEALTH OF MASSACHUSETTS DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

D.T.C. 10-3

September 17, 2010

Investigation by the Department on its Own Motion into the Lifeline and Link-Up
Programs for Massachusetts Telephone Customers

ORDER OPENING INVESTIGATION

Lifeline is a universal service support mechanism designed to provide low-income consumers with discounted monthly telephone service for a single line per residence. *In the Matter of Lifeline and Link-Up*, 19 F.C.C.R. 8302, *Report and Order and Further Notice of Proposed Rulemaking* at 8306-07 (rel. Apr. 29, 2004). Link-Up is the universal service support mechanism for reducing the charge for the initial connection charge at a consumer's principal residence. 47 C.F.R. § 54.411. Under the universal service low-income program, eligible telecommunications carriers ("ETCs") receive reimbursement for every qualifying low-income consumer that they provide with Lifeline and Link-Up services. 47 C.F.R. § 54.407(b). The Department of Telecommunications and Cable ("Department") administers these programs in Massachusetts, including performing ETC designations;¹ prescribing eligibility certification and

¹ 47 C.F.R. §§ 54.201(b)-(c). See, e.g., *Investigation by the Dep't of Telecomms. & Energy on its own motion concerning (1) designation of eligible telecomms. carriers, pursuant to § 102 of the Telecomms. Act of 1996 ("Act"); (2) participation in the Fed. Comm'ns Comm'n's ("FCC's") modified Lifeline program and acceptance of increased fed. funding, pursuant to 47 C.F.R. §§ 54.400-54.417 et seq.; and (3) participation in the FCC's program for discounted intrastate rates for telecomms. servs. for rural health care providers, pursuant to § 254(h) of the Act*, D.T.E. 97-103, *Order* at 2 (Dec. 23, 1997) ("D.T.E. 97-103") (approving ETC designation petitions for the existing dominant incumbent in Massachusetts, three rural incumbents, and one competitive provider).

verification procedures for ETCs;² setting consumer eligibility criteria;³ approving Tier Two and Tier Three federal Lifeline support and mandating carrier Lifeline support;⁴ as well as setting outreach requirements for carriers;⁵ and prescribing the services that Lifeline customers may receive.⁶ Under the universal service program, states are free to implement rules, consistent with those of the FCC, to “preserve and advance universal service” as well as to provide “additional definitions and standards to preserve and advance universal service within that State.” 47 U.S.C. § 254(f).

On June 30, 2010, the Department concluded its investigation into the annual verification audit conducted by TracFone Wireless, Inc. (“TracFone”), an ETC that provides Lifeline services in Massachusetts. *TracFone Wireless, Inc., Annual Verification of SafeLink Wireless Lifeline Subscribers*, D.T.C. 09-9, *Order* at 15-16 (June 30, 2010). In that *Order*, the Department found that the existing certification and verification procedures were insufficient to ensure that only eligible consumers receive Lifeline services and to prevent fraud. *See id.* Accordingly, the Department opened the instant investigation to establish appropriate certification and verification procedures for TracFone. *See id.* In order to ensure that the current

² 47 C.F.R. §§ 54.410(a)(1), (c)(1).

³ 47 C.F.R. § 54.409(a).

⁴ 47 C.F.R. §§ 54.403(a)(2)-(3). *See also Investigation by the Dep’t of Telecomms. and Energy on its own Motion into the Appropriate Regulatory Plan to succeed Price Cap Regulation for Verizon New England, Inc. d/b/a/ Verizon Mass.’ intrastate retail telecomms. services in the Commonwealth of Mass.*, D.T.E. 01-31-Phase II, *Order* at 94 (Apr. 11, 2003) (increasing the Lifeline credit commensurate with a rate increase for basic residential service); D.T.E. 97-103 at 9-10.

⁵ *Investigation by the Dep’t of Pub. Utils. on its own motion as to the propriety of the rates and charges set forth in tariff schedules D.P.U. Mass. Nos. 10 and 15, filed with the Dep’t on June 14, 1993, to become effective July 14, 1993, by New England Tel. and Tel. Co.*, D.P.U. 93-125, *Order* at 53 (Jan. 13, 1994).

⁶ The FCC has recognized that “states will continue to have the right to establish eligibility requirements for [L]ifeline service as well as determine whether [L]ifeline customers are eligible to subscribe to optional services.” *Application of GTE Corp., Transferor, and Bell Atlantic Corp., Transferee, For Consent to Transfer Control of Domestic and Int’l Sections 214 and 310 Authorizations and Application to Transfer Control of a Submarine Cable Landing License*, 15 F.C.C.R. 14032, *Memorandum Opinion and Order* at ¶ 327 (rel. June 16, 2000) (declining to remove restrictions on the purchase of optional services by Lifeline customers). The Joint Board on Universal Service, as well, has stated “that any restriction on vertical services is outside the scope of the Lifeline/Link-Up program, and, ... may be entirely within the purview of the states.” *Fed.-State Joint Bd. on Universal Serv.*, 18 F.C.C.R. 6589, *Recommended Decision* at ¶ 62 (rel. Apr. 2, 2003).

Lifeline and Link-Up programs for both wireline and wireless customers are as effective and efficient as possible and designed in a manner that increases the Lifeline penetration rate in the Commonwealth, the Department, on its own initiative, under General Laws chapter 159, section 16, will conduct a broad re-examination of the telephone low-income programs for all Massachusetts ETCs (wireline and wireless). The scope of this investigation will include the procedures to certify and verify the eligibility of Lifeline subscribers, eligibility criteria, services to which the Lifeline and Link-Up discounts may be applied, outreach requirements, and any other reasonably related issues. The attached Request for Comment & Notice of Public Hearing provides further detail regarding the scope of this investigation.

ORDERED: To open an investigation broadly re-examining the requirements of the Lifeline and Link-Up programs for all Massachusetts ETCs (wireline and wireless); and it is

FURTHER ORDERED: That within three days of the date of this *Order*, the Secretary of the Department shall publish the accompanying legal notice in the Boston Globe; and it is

FURTHER ORDERED: That within three days of this *Order*, the Secretary of the Department shall serve a copy of this *Order* on the persons identified on the distribution list prepared for noticing this inquiry.

By Order of the Department

/s/ Geoffrey G. Why
Geoffrey G. Why
Commissioner